

# DECISION



12469  
PLM-1  
Mr. Pool

THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-195557

DATE: January 8, 1980

MATTER OF: William A. Belvin - [detail to higher-graded position]

DIGEST: Civilian employed by Department of the Navy as AAC000001  
Quality Assurance Specialist claims retroactive temporary promotion and backpay while performing higher level duties of Supervisory Quality Assurance Specialist based on decision in Turner-Caldwell, 56 Comp. Gen. 427 (1977). Where record indicates that claimant's supervisor specifically directed him not to perform those duties, claim is denied since employee has failed to meet burden of proof necessary to prove allegation of official detail to the higher-graded position.

Mr. William A. Belvin, through his authorized representative, requests reconsideration of his claim for retroactive temporary promotion and backpay which was disallowed by our Claims Division on May 22, 1979. For the reasons which follow we must sustain the adjudication of our Claims Division. GAO 60420

The Claims Division's denial of Mr. Belvin's claim was based on his failure to demonstrate that he was in fact detailed to the higher position in question. In addressing the fact that this Office decides cases involving claims against the Government on the basis of the written record, the Claims Division's adjudication correctly stated:

"\* \* \* Claims against the United States cannot be allowed unless they are corroborated by Government records or other documentary evidence. As stated in section 31.7 of title 4 of the Code of Federal Regulations, claim settlements are based on the facts as established by the Government agency concerned and by evidence submitted by the claimant, and the burden is on the claimant to establish the liability of the United States for payment. Furthermore, where an administrative agency and a claimant disagree as to the facts in a case, it is our policy to accept the facts as presented by the agency in the absence of clear and convincing proof to the contrary."

In support of his present appeal, Mr. Belvin has submitted additional certification letters signed by employees at his facility, as well as copies of leave applications which he approved, as evidence

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of his performance of the higher-grade duties of the GS-11 position of Supervisory Quality Assurance Specialist during the period of his claim. While this range of new evidence clearly indicates that Mr. Belvin performed certain duties of the GS-11 supervisory position, it is nevertheless insufficient evidence to establish that he was officially detailed to the higher-grade position during the period of his claim.

We have held that employees who are detailed to higher-grade positions for more than 120 days without Civil Service Commission (now Office of Personnel Management) approval are entitled to retro-active temporary promotions with backpay for the period beginning with the 121st day of the details until the details are terminated. Matter of Everett Turner and David L. Caldwell, 55 Comp. Gen. 539 (1975) and Reconsideration of Everett Turner and David L. Caldwell, 56 Comp. Gen. 427 (1977). Federal Personnel Manual (FPM) Bulletin No. 300-40, May 25, 1977, was issued by the Civil Service Commission in order to provide additional information to assist agencies in the proper application of these decisions.

Paragraph 4 of the FPM Bulletin defines a detail as the temporary assignment of an employee to a different position within the same agency for a brief, specified period, with the employee returning to his regular duties at the end of the detail. Paragraph 8F of the FPM Bulletin requires agencies, in accordance with FPM Supplement 296-31, Book II, Subchapter S3-13, to record details in excess of 30 calendar days on a Standard Form 52 or other appropriate form and to file it on the permanent side of the employee's Official Personnel Folder. However, in the absence of this form of documentation, paragraph 8F recognizes that the employee may provide other forms of acceptable proof of his detail. Such acceptable documentation includes official personnel documents or official memoranda of assignment, a decision under established grievance procedures, or a written statement from the person who supervised the employee during the period in question, or other management official familiar with the work, certifying that to his or her personal knowledge the employee performed the duties of the particular established, classified position for the period claimed. Mr. Belvin's contention that he was detailed during the period of his claim must be tested against the prescribed criteria. See Matter of Edward M. Scott, B-192099, November 8, 1978.

The administrative record in this case indicates that Mr. Belvin was detailed by Memorandum for the Record as Acting

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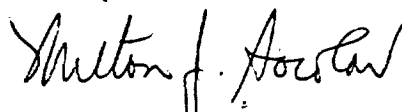
Branch Head, Code 351, Quality Assurance Department, from October 19, 1976. Although that memorandum indicates that the detail was indefinite in duration, a memorandum dated November 29, 1976, signed by the same individual indicates that the detail terminated on November 19, 1976. Subsequently, Mr. Belvin was temporarily promoted to the position of Quality Assurance Specialist, GS-1910-11 (position description number 3442), to fill the Branch Head position from January 16 to May 17, 1977. At the expiration of the temporary promotion Mr. Belvin was returned to his regular position, Quality Assurance Specialist, GS-1910-10 (position description number 4353). Although disputed by Mr. Belvin, the Department of the Navy further states that Mr. Belvin was repeatedly cautioned by his immediate supervisor not to assume the Branch Head duties after the expiration of the temporary promotion on May 17, 1977.

With the clear exception of those periods noted above during which Mr. Belvin was detailed and then temporarily promoted to the GS-11 position of Supervisory Quality Assurance Specialist, there are no official records which document Mr. Belvin's alleged detail during the period of his claim. The record does establish that he assumed certain responsibilities of the Branch Chief position and the certifications which he has presented indicate that others with whom he worked considered him to have served in that capacity. However, in view of the statement by Mr. Belvin's immediate supervisor indicating that he repeatedly advised Mr. Belvin not to assume the duties of the higher-grade position, we are unable to find that he was assigned to perform the duties of the Branch Chief position. See Matter of Nathan Lesowity, B-185766, June 15, 1977, and November 17, 1977; and Matter of Glenn E. Silvey, B-192642, March 1, 1979.

As indicated by the above discussion of the documentation necessary to establish a detail, assignment of an employee to the particular higher-grade position need not be formally documented. However, there must be official recognition of his assignment to and performance of the higher-grade duties. While the understanding of coworkers and subordinates as to the nature of an employee's duties may be corroborative evidence of a detail, such evidence by itself generally is insufficient to document a detail. Matter of William L. DeGraw, B-194369, August 24, 1979. On the other hand, official recognition may be established by the statements of the employee's supervisors or other management officials indicating that to their knowledge he performed the duties of the higher-grade position. Acquiescence in his performance of those duties, or inducement by

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those officials will ordinarily suffice to demonstrate that he was informally detailed. However, where as here, the record demonstrates that the employee's supervisor neither induced nor acquiesced in his performance of the higher-grade duties, but specifically directed him not to perform those duties, it cannot be said that he was assigned to the higher-grade position. Accordingly, we find that Mr. Belvin has failed to meet the burden of proof necessary to prove his allegation of a detail to the higher-grade position. His claim, therefore, must be denied.



For The Comptroller General  
of the United States